

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MARTIN L. SPENCE, )  
Petitioner )  
v. ) Civil Action No.  
IMMIGRATION & NATURALIZATION ) 04cv10385-RWZ  
SERVICE, )  
Respondents )

MOTION TO DISMISS

Respondent<sup>1</sup> moves to dismiss this action pursuant to Fed. R. Civ. P. rules 12(b)(1) and (6) for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By:

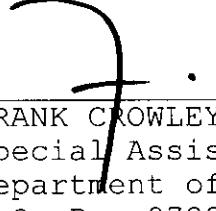
FRANK CROWLEY  
Special Assistant U.S. Attorney  
Department of Homeland Security  
P.O. Box 8728  
J.F.K. Station  
Boston, MA 02114  
(617) 565-2415

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<sup>1</sup> As of a DHS restructuring effective June 9, 2003, the responsive successor official of the Department of Homeland Security having control of petitioner's custody in the instant action is Bruce Chadbourne, Interim Field Director for Detention and Removal, Bureau of Immigration and Customs Enforcement ("ICE") in Boston, Massachusetts.

**CERTIFICATE OF SERVICE**

I hereby certify that I caused true copy of the above document to be served upon pro se petitioner by mail on March 2, 2004.

  
FRANK CROWLEY  
Special Assistant U.S. Attorney  
Department of Homeland Security  
P.O. Box 8728  
J.F.K. Station  
Boston, MA 02114